



# PEACE OF MIND™ NEWSLETTER

*Exclusively for POM Members*

801 E. Charleston Road  
Palo Alto, California 94303

July, 2022



## Dangers of UTMA Accounts and Benefits of Crummey Trust

Countless well-meaning grandparents, aunts, and uncles make gifts to bank accounts under the Uniform Transfer to Minors Act (UTMA) approach. In this way, up to \$16,000 per year can be given by any individual to such an account. The donor removes that money from her taxable estate while setting aside money for the beloved grandchild.

When the grandchild (or child) becomes 18 or 21 years of age, the child becomes the owner of the account.

Two Peace of Mind members came to us recently because the UTMA accounts they established for grandchildren grew tremendously in value because of good investments. Both have grandchildren with dubious money management skills. Simply stated, they are very worried that their grandchildren are going to have control of an enormous amount of money and could make terrible mistakes. One such account has over \$1 million in it.

**This is why Crummey Trusts are better.** We want to emphasize that it is dramatically better

to establish a trust for a grandchild and transfer money into that trust rather than using

UTMA accounts. In this way, the money can be held in trust until the grandchild or child is 30 years of age, 40 years of age, or even older. Someone else can be trustee and in charge of the money. The money can be used very liberally for the well-being of the grandchild.

**What to do about large UTMA accounts?** In both of these cases, we have had long talks with our clients about the options. One approach is to seek cooperation from the child who becomes the owner of these funds. All or most of the money might go into a revocable trust where a parent is the trustee or a co-trustee with the child. And it is not “all or nothing.” Perhaps the grandchild takes \$100,000 and puts \$900,000 into the trust for safe keeping. (Continued on page 2)

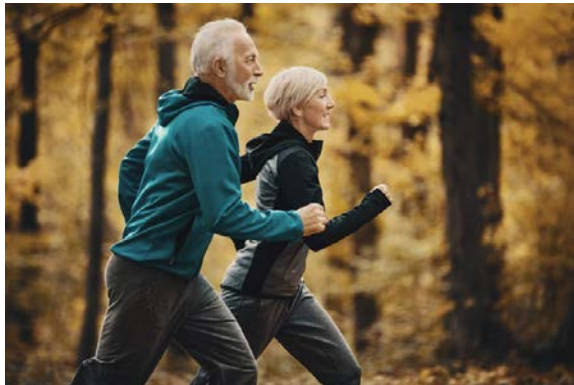
Join us for our next  
POM webinar  
**Understand the  
Invisible, Powerful Role  
of your Durable Power  
of Attorney and  
Advance Directive**

Tuesday, August 2, 2022 at 1PM  
<https://www.gilfix.com/peace-of-mind/webinars/>

(Continued from page 1) Some grandparents or parents exercise “benign neglect” where they don’t remind their kids about these accounts. Even though the 18 year old becomes the legal owner, they don’t have control until the account is changed. We can’t recommend this, of course, but we know it happens.

If a grandchild has drug or other serious problems, it is sometimes necessary to go to court to have large UTMA accounts transferred into a trust so that the child cannot harm himself as a result of gaining control of so much money.

Nothing is simple. If you want to set aside money for a grandchild, we strongly urge you to create a Crummey Trust for that child. It works. It is safe, the cost is modest, and you will rest easy at night.



“New Record! 108”

A longtime client called to tell us that her mother passed away. A few years ago, we took a number of planning steps on behalf of her mother and her daughter.

She entered a nursing home at age 104. She was still perfectly coherent, but needed help with physical necessities of life. She lived four more years, setting a new record for longevity among members of our client community.

## Update: New Medi-Cal Eligibility Rules

Remarkably, the liberal eligibility rules for Medi-Cal eligibility in California just got more liberal.

Previously, an individual could only qualify for Medi-Cal while retaining no more than \$2,000 in her name. Now, pursuant to new California law, an individual can retain up to \$130,000 while achieving eligibility for the state Medi-Cal program.

Planning steps still need to be taken for individuals with larger estate. Also, assets remaining at one’s passing will be subject to a Medi-Cal reimbursement claim and be lost unless protective steps are taken.

## Examples of How Clients Use Their POM Hour

**Mr. and Mrs. H came to see us to make modifications in their inheritance or bequest plan.** In the course of the discussion, they indicated that a niece, who was to receive 20% of the estate, “can be mentally unbalanced at times.” We then asked a number of questions. It resulted in the creation of a Special Needs Trust to hold that niece’s inheritance since a) if she controlled the money, she would quickly lose it and b) if she had the money, she would become ineligible for needs-based government benefits.

This makes an important point: your job is to identify the issues and challenges in your family; our job is to create the solutions that make the most sense.

**Mrs. J had a long list** of questions about her estate planning and her personal future. Her issues included long term care insurance, special programs for a child with a disability, (Continued on page 3)

(Continued from page 2)  
and tax implications of Proposition 19. In the course of the consultation, other issues occurred to her – *and this is the point.*

Getting together with us creates an opportunity to think about your planning and address questions that may not seem to be important at the moment. We have learned, however, that lingering questions should be addressed. Indeed, that is a primary purpose of the no-fee consultation under our program.

**Mr. & Mrs. D sold their home.** They used a Florida intermediary, arguably to capture tax advantages. Their requests to have proceeds forwarded to their account were ignored for almost a week. They were suddenly worried that they were “scammed.” They could not sleep.

We met with them the next day, contacted the involved entity, and confirmed that the funds were indeed available and we identified the steps to take to be sure that the funds are immediately distributed.

Ideally, they would have consulted with us before entering into this arrangement.



**Mrs. T transferred** her free hour consultation to a friend whose father just died in Southern California. This individual was named as the executor in a will. His brother and sister-in-law informed him that they would challenge the will

because a) that son was not named as executor and b) the will leaves the entire estate to the “good son,” the one who talked with us.

We educated him about the grounds for challenging a will and learned enough about the circumstances to conclude that any challenge was very unlikely to be successful. He is proceeding with the probate matter with dramatically less worry even though he knows that his brother is about to make things difficult for him.



Exclusive POM Webinar

## Understand the Invisible, Powerful Role of your Durable Power of Attorney and Advance Directive

The documents we prepared for you are detailed, yet may need updates.

1. Why all family members must sign both.
2. Special needs family members should sign both, avoiding conservatorship.
3. Have you named the right agent?
4. Special challenges in enforcement.
5. Can they be “stale?”

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Register at <https://www.gilfix.com/peace-of-mind/webinars/>

# UPCOMING EVENTS

Peace of Mind Webinar

Understand the Invisible,  
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Power of Attorney and  
Advance Directive

Save the date!

**Tuesday, August 2 at 1PM**

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## ★Use or Share your FREE hour POM consultation★

Remember: If you do not plan on using your annual consultation, let a family member use it. It is transferrable. Use the attached certificate and just make the appointment!

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## ***PEACE OF MIND***

### FREE CONSULTATION\* CERTIFICATE

I/We, \_\_\_\_\_, give to \_\_\_\_\_  
[POM Member] [Recipient]

our 20\_\_\_\_, annual free Peace of Mind Consultation to be used on or before  
\_\_\_\_\_, 20\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
[POM Member]

\_\_\_\_\_  
[POM Member]

\*When calling to make this appointment, please indicate that you have this Certificate

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GILFIX & LA POLL ASSOCIATES, LLP

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Member Newsletter

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